

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

Writ Petition No.6600 of 2004

Pandurang Sakharam Ambre..Petitioner

VS

Union of India and ors ..Respondents

Mr.Tushar Bhavsar for Shukla and Shukla for
petitioner

Mr. R.S.Apte with Mr. Girish Kulkarni for
respondent no.1

CORAM: A.P.SHAH & S C DHARMADHIKARI JJ.

Dated 7.12.2004

P.C:

Heard advocates.

1. The petitioner joined as fourth grade Police Constable with SPRF II in Gujarat. In 1954 he was promoted as Grade III Head Constable. In 1961 he was promoted to the post of Jamadar and he served at NAFA border for nearly 7 years. It appears that due to change of climate which adversely affected the health of the petitioner he was permanently incapacitated and was declared invalid and made to retire on 14.7.1970. The petitioner is receiving invalid pension in accordance with the Army Rules and Regulations. At present petitioner is receiving pension at the rate of Rs.1310 p.m.

2. It is the case of the petitioner that as per the Vth Pay Commission he is entitled to pension of Rs. 2160 p.m. on the revised payscale. It appears that by a policy letter dated 17.12.1998 the Central Government accepted recommendations of the Vth Pay Commission relating to retirement benefits including pension. Para 9 of the said policy letter inter alia stated that separate orders will be issued in respect of Armed Forces. Thereafter by policy letter dated 7.6.1999 the Central Government accepted recommendations of the Vth Pay Commission in respect of grant of pension to pensioners of Armed Forces. In terms of policy letter dated 7.6.1999 the petitioner is entitled to revised pension which shall not be less than Rs.50% of the minimum pay in revised scale of pay introduced with effect from 1.1.1996 of the rank held by the petitioner with effect from 1.1.1996. The petitioner claims that as per the recommendations of the Vth Pay Commission read with policy letter of 7.6.1999, petitioner is entitled to pension at 50% of Rs.4320/- i.e Rs.2160 per month.

3. The petitioner has made repeated representations to the Armed Forces Authorities claiming revised pension but the authorities did not respond to the said representations made by the

petitioner. The petitioner submits that the revised pension has been denied to the petitioner on a totally erroneous assumption that such revision would be less beneficial to the petitioner.

4. This petition is pending before this Court since August 2004. Several adjournements were taken by the learned counsel for the respondents for filing affidavit in reply, however, till date no reply is filed. Thus the averments made in the petition have gone uncontroverted. As per the policy letter of 7.6.1999 as also under the Vth Pay Commission the members of the Armed Forces are eligible for revised pension. We see no reason as to why this relief should not be granted to the petitioner. We therefore direct the respondents to fix the pension of the petitioner at the rate not less than 50% of minimum pay as per the revised pay scale introduced on 1.1.1996 in respect of Petty Officer Group Y and release the pension including arrears with simple interest at the rate of 9% p.a. with effect from 1.1.1996.

Petition is accordingly disposed of.